(3) SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(C.G)

Writ Petition NO 4820 /2005

PETITIONERS

1. Shiromani Chandraker aged about 38 years s/o Shri Chhotelal Chandraker Asst. Teacher Primary School Purena, Block-Dharsiwa Dist- Raipur (C.G)

2. Yodhan Singh Dewangan, aged about 39 years, S/o Shri Gendalal Dewangan, Asst. Teacher Primary School Purena, Block-Dharsiwa Dist- Raipur (C.G)

3. Kabir Saran Hirwani, aged about 35 years, S/o Shri Netram Hirwani, Asst. Teacher Primary School Purena, Block-Dharsiwa Dist- Raipur (C.G)

4. Sampat Kumar Mishra, aged about 53 years, S/o Shri Rampratap Mishra, Asst. Teacher Primary School Purena, Block-Dharsiwa Dist- Raipur (C.G)

5. Manohar Lal Chandrakar, aged about 37 years, S/o Shri Nathuram Chandrakar, Asst. Teacher Primary School Purena, Block-Dharsiwa Dist-Raipur (C.G)

Gokul Ram Sahu, aged about 41 years, S/o Shri Murku Ram Sahu, Asst. Teacher Primary School Purena, Block-Dharsiwa Dist- Raipur (C.G)

P.R. No. 4897/05 Presented on 20/9/05 Rakesh Antony

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शपथ आयुक्त बिलासपुर तहसील जिला

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, Though the Secretary Department of School Education, Mantralay, D.K.S. Building, Raipur (C.G)

(2)

2. Director,
Public Instruction, Pension Bada
Raipur (C.G)

3. District Education Officer
District- Raipur (C.G)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.4820 OF 2005

Petitioners : Shiromani Chandraker and others

versus

Respondents : The State of Chhattisgarh and others

Present : Mr. Rakesh Anthony, counsel for the petitioners.
Mr. Arun Sao, Government Advocate for the State/ respondents.

ORDER
(Passed on 10th of November, 2006)

Learned counsel appearing for the petitioners submits that petitioners No.2 and 5 be permitted to withdraw their petition with liberty to file a fresh petition as they are claiming relief of grant of two advance increments not on the basis of B.Ed./B.T.I. Certificates but on the basis of D.Ed. Certificate. Learned counsel for the petitioners further submits that the other petitioners are claiming the relief of grant of two advance increments on the basis of B.Ed./B.T.I. Certificates.

2. Accordingly, the writ petition, so far as it relates to petitioners No.2 and 5, stands dismissed as withdrawn with the above-stated liberty. No order as to costs.

3. Petitioners No.1, 3, 4 and 6 are working as Assistant Teacher in Government Schools. In the course of their service as

Assistant Teacher, they have obtained B.Ed./B.T.I. Certificates at their own expenses before 1-3-1999.

4. According to learned counsel for the petitioners, petitioners No.1, 3, 4 and 6 are entitled to two advance increments in view of the decision of this Court in the case of *Yashwant Kumar Bharadwaj vs. Municipal Corporation, Durg and another*[1], wherein it has been held that the teachers, having obtained B.Ed., M.Ed., B.T.I. Certificates, at their own expenses, are covered by the circular dated 24-12-1998 issued by the State Government of Madhya Pradesh.

5. Further, in the matter of *Smt. Manorama Shrivastava vs. State of M.P. and others*[2], the Madhya Pradesh Administrative Tribunal, Gwalior Bench, while considering the circular dated 1-3-1999, wherein it is provided that the Assistant Teachers, who have acquired B.Ed. Degree at their own cost between 23-10-1964 and 7-5-1973 shall be entitled to two advance increments, relied on decision in the case of *Rakesh Kumar Shrivastava vs. State of M.P. and others* passed in Original Application No.1632 of 1999, decided on 12-10-1999, wherein it is observed that the circular dated 1-3-1999 cannot be made applicable retrospectively. Thus, a Teacher, may be Assistant Teacher, who has obtained B.Ed. Degree before 1-3-1999 is entitled to two advance increments.

6. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No.1999 of 2000 filed against the order of the Tribunal. Therefore, the direction to

the effect that the circular dated 1-3-1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers, who have obtained B.Ed./B.T.I. Certificates before 1-3-1999. It is further substantiated by a circular dated 17-10-2003 issued by the present State of Madhya Pradesh, wherein the circular clearly states about the decision of the Hon'ble Supreme Court.

7. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case of petitioners No.1, 3, 4 and 6 are squarely covered by the decision of this Court in the case of *Yashwant Kumar Bharadwaj* (Supra), to which learned counsel appearing for the respondents/State fairly concedes and agrees with the averments made by learned counsel appearing for the petitioners.

8. Accordingly, the writ petition, so far as it relates to petitioners No.1, 3, 4 and 6, is allowed in terms of the decision of this Court in the matter of *Yashwant Kumar Bharadwaj* (Supra), subject to verification of the fact as to whether petitioners No.1, 3, 4 and 6 have acquired B.Ed./B.T.I. Certificates at their own expenses as per the circulars dated 24-12-1998 and 1-3-1999 and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 2006 (II) MPJR-CG 96

2 2000 (1) M.P.L.S.R. 136

Gopal